

# TENTATIVE DRAFT

*NOTE: It is requested that suggested corrections be sent to the Office of the Secretary, San Francisco, as soon as possible.*

## MINUTES

### BOARD OF GOVERNORS MEETING

#### SAN FRANCISCO

**NOVEMBER 3 - 4, 2000**

The Board of Governors of the State Bar of California convened in the Malcolm Lucas Board Room, Judicial Council Conference Center, 455 Golden Gate Avenue, San Francisco, California, at 9:30 a.m., Friday, November 3, 2000, Palmer Brown Madden presiding.

The following members of the Board of Governors were present: Ronald A. Albers, Anthony P. Capozzi, Judith M. Copeland, Patrick R. Dixon, James E. Herman, Scott H. McNutt, Peter D. Nitschke, Karen S. Nobumoto, James D. Otto, Robert K. Persons, David L. Roth, Julie S. Sommars, Scott Wylie, Erica R. Yew and Nancy J. Hoffmeier Zamora.

The following members of the staff also were present: Starr Babcock, Francis Bassios, Kathleen Beitiks, Jerry Braun, Scott Drexel, Robert Hawley, Judy Johnson, Dean Kinley, Nancy McCarthy, Marie M. Moffat, Mark Shannon and Biljanna Sivanov.

The roll-call vote taken and upon motion made, seconded and unanimously adopted it was

**RESOLVED** that the roll-call vote will be substituted for the vote unless otherwise noted.

All members present and recorded on the roll-call slip voted yes on the above matter.

10 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED** that the minutes of the meeting of the Board of Governors held on August 26, 2000, in San Francisco, hereby are approved as amended.

All members present and recorded on the roll-call slip voted yes on the above matter.

10 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED** that the minutes of the meeting of the Board of Governors held on September 17, 2000, in San Diego, hereby are approved as written.

All members present and recorded on the roll-call slip voted yes on the above matter.

41 The Executive Director reported on the following:

1. Attention was called to the resource documents distributed to the Board which included the Board roster, partial 2000-2001 calendar of deadlines, as well as Board committees and a list of Board liaisons to various sub-entities of the Bar.
2. She stated that as part of her outreach activities, she was a speaker at the Women Lawyers Association Dinner honoring women judges on Thursday, November 2, 2000. She urged Board members to involve themselves in outreach activities in their respective districts.
3. Jann Dorothy has joined the staff as the new Director of Operations.
4. The Rules and Regulations of the State Bar pertaining to the Annual Board of Governors Election are being reviewed with an eye toward modernizing the process to include internet voting as well as extending the voting period where practical. Attention was called to an article on this subject in the *California Bar Journal*.

30 The President reported on the following:

1. The agenda for January 26 - 27, 2001, meeting will include presentations by Karen Nobumoto on Diversity in the Bar and Ron Albers on Access to Justice Policy Issues.
2. He reported that a three-year budget is being developed.
3. The following items were withdrawn from the Board's agenda:
  - 51 Financial Statements for Quarter Ending September 30, 2000
  - 52 Investment Reports for Quarter Ending September 30, 2000
  - 53 Client Security Fund Reports for Quarter Ending September 30, 2000
  - 54-123 Rules Regulation Admission to Practice Law in California—proposed amendments to rule VIII, section 3
  - 54-127 Rules of Procedure for Fee Arbitrations, Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs

54-111 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Committee on Administration and Finance, that the Board hereby authorizes the Executive Director, or her designee, to enter into contracts with the California Department of Corrections to obtain funds through grant monies for Volunteers in Parole, Inc., for the period up through and including December 31, 2003; and it is

**FURTHER RESOLVED** that the Board authorizes the Executive Director, or her designee, to enter into contracts with the California Youth Authority to obtain funds through grant monies for Volunteers in Parole, Inc., for the period up through and including December 31, 2003; and it is

**FURTHER RESOLVED** that the Board authorizes the Executive Director, or her designee, to subcontract with Volunteers in Parole, Inc. for the receipt and administration of such funds for the period up through and including December 31, 2003; said contracts and subcontracts to be reviewed and approved by the Office of General Counsel.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-117 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby adopts amendments to CalPERS Contract in the form before the Board this day.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-124 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Committee of Bar Examiners and the Board Committee on Regulation and Discipline, following public comment and upon consideration of comments received, that the Board hereby approves Rule XVII [Testing Accommodation Application Procedures] of the *Rules Regulating Admission to Practice Law in California*, in the form attached to these minutes and made a part hereof.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-125 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby amends rule 205 [Duration and Termination of Actual Suspension in Default Proceeding] of Rules of Procedure of the State Bar of California, in the form attached to these minutes and made a part hereof, effective January 1, 2001.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-126 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby amends rules 108 and 201 of the Rules of Procedure of the State Bar of California and to Standards 2.2(b), 2.7, 2.8 and 2.9 of the Standards for Attorney Sanctions for Professional Misconduct, in the form attached to these minutes and made a part hereof, to become effective on January 1, 2001.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-131 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Communications and Member Relations, that the Board hereby amends the charges of the Access and Fairness Committees in the form attached to these minutes and made a part hereof; and it is

**FURTHER RESOLVED** that the Board encourages the committees to draft additional expanded charges for activities not allowable under *Brosterhous*, and until expanded charges are adopted, the pre-*Brosterhous* charges of the Ethnic Minority Relations Committee, the Women in the Law Committee and the Committee on Legal Professionals with Disabilities will define the scope of activity that must be funded with voluntary funds; and it is

**FURTHER RESOLVED** that the Board approves the expanded charge adopted by the Committee on Sexual Orientation Discrimination to define the scope of activity to be funded with voluntary funds.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-132 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Member Relations and Communications, that the Board hereby approves the change in name of the Committee on Sexual Orientation Discrimination to Committee on Sexual Orientation and Gender Identity Discrimination.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-151 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Legal Committee, that the Board hereby amends the Board Legal Committee Charter in the form attached to these minutes and made a part hereof; and it is

**FURTHER RESOLVED** that the Board amends the policy Appointment and Composition of Board Committees [contained in the Administrative Manual, as revised December 1997, Division 4, Chapter 6, Article 1, Section 2(a) and (b) and Division 4, Chapter 6, Article 2, section 4] as follows:

- a. Each standing committee shall have at least ~~five (5)~~ **three (3)** members. The president shall appoint the chair of each committee, subject to the approval of the board, except that the president shall ~~chair the President's Committee.~~ **be an ex officio member of the Legal Committee for the purposes of breaking a tie vote.**
- ~~b. The Legal (Presidents' Litigation) Committee shall be composed at the prerogative of the president.~~
- e. b. Each standing committee shall have at least three (3) members. The president shall appoint the chair of each committee, subject to the approval of the Board.**

All members present and recorded on the roll-call slip voted yes on the above matter.

121 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Committee of Bar Examiners, the Board Committee on Regulation and Discipline, and the Board Committee on Legislative and Court Relations, that the Board hereby finds that the proposed amendments to the California Business and Professions Code, sections 6060(e), 6060.3, 6062 and 6065 are within the parameters established by the United States Supreme Court in *Keller v. State Bar of California*; and it is

**FURTHER RESOLVED** that the Board hereby includes in the State Bar of California's 2001 legislative program the proposed amendments to the California Business and Professions Code Sections 6060(e), 6060.3, 6062 and 6065, in the form attached to these minutes and made a part hereof.

All members present and recorded on the roll-call slip voted yes on the above matter.

122 Upon motion made, seconded and adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Regulation and Discipline, that the Board hereby appoints, pursuant to Business and Professions Code section 6079.1, subdivision (e), and rule 14 of the Rules of Procedure of the State Bar of California, Carlos E. Velarde and Nancy R. Lonsdale as judges pro tempore of the State Bar Court; and it is

**FURTHER RESOLVED** that such appointment shall be contingent upon the written determination of the Presiding Judge of the State Bar Court, on or about November 1, 2000, that such appointment(s) is (are) necessary to complete one or more

matters pending before the judge(s) at the expiration of his or her respective term of office and to avoid undue delay to the proceeding(s).

All members present and recorded on the roll-call slip voted yes on the above matter with the exception of Scott Wylie, who abstained from voting.

Karen Nobumoto addressed the board regarding the possible need for a fax poll concerning the 1997 Statement of Chargeable and Nonchargeable Expenses.

Mr. Greiner enter the meeting and was added to the roll call vote.

152 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Legal Committee, that the Board hereby authorizes the Executive Director to accept on its behalf the audited 1997 Statement of Chargeable and Nonchargeable Expenses and Auditors' Report, subject to review by General Counsel, or her designee, that the notes in the Statement comply with the requirements of *Keller*, and it is

**FURTHER RESOLVED** that if there is a material change in the Statement of Chargeable and Nonchargeable Expenses and Auditors' Report, a fax poll of the Board will be conducted to review and accept or reject the Statement.

All members present and recorded on the roll-call slip voted yes on the above matter.

54-133 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Member Relations and Communications, that the Board hereby amends the bylaws for the Council of State Bar Sections, in the form attached to these minutes and made a part hereof, with portions stricken from paragraphs 2 and 8, and with paragraph 11 stricken in its entirety; and it is

**FURTHER RESOLVED** that the State Bar Administrative Manual will be amended to reflect this resolution at the earliest possible opportunity.

All members present and recorded on the roll-call slip voted yes on the above matter.

161 Robert K. Persons, member, Board Committee on Legislative and Court Relations, explained the positions that the Board may take on the legislative proposals.

Laura Goldin, Chair, Conference of Delegates, addressed the Board concerning the functioning of the Conference, and the need for the rules and policies governing the Conference to be revised to reflect changes that have occurred in the last few years. She emphasized that the Conference was now a self-funded entity and therefore not subject to the restrictions that the Conference faced in prior years regarding the purview issues.

Nancy HoffmeierZamora stated that a meeting would take place between the three Board liaison to the Conference of Delegates.

Larry Doyle, Chief Legislative Counsel, addressed the Board and outlined the Sections and Committees Legislative Program.

The Board went into closed session at 10:40 a.m., and those other persons present in the meeting, except the Executive Director and members of the Senior Executive Team, left the meeting

The Board resumed open session at 10:55 .p.m.

300 The appointments were considered in confidential session and the actions of the Board are reported below.

6010 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED** that the Board hereby ratifies or amends the appointments to various committees contained in the November Closed consent agenda 6010, i.e., items 6011-6014, this day before the Board.

All members present and recorded on the roll-call slip voted yes on the above matter.

6011 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Regulation and Discipline, the Board hereby appoints Alfred R. Conklin, III, to the Client Security Fund Commission, for a term to commence November 4, 2000, and to expire May 31, 2000, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6012 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Task Force on Appointments, that the Board hereby appoints Peter Von Haam, Los Angeles, member, Public Law Section Executive Committee, vice Jeffrey Kightlinger, resigned, effective immediately, for the remaining portion of Mr. Kightlinger's unexpired term, i.e., October 13, 2002, or until further order of the Board, whichever occurs earlier.

All members present and recorded on the roll-call slip voted yes on the above matter.

6013 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee Member Relations and Communications, that the Board hereby appoints Lew Hollman and Charles Scott to the California Indian Legal Services Board of Directors, each to serve for a three-year term commencing September 1, 2000, and expiring August 31, 2003.

All members present and recorded on the roll-call slip voted yes on the above matter.

6014 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Member Relations and Communications, that the Board hereby reappoints Angelo Ancheta, Maria Blanco, Jose R. Villarreal, George Waters and Hon. Diane Wayne to the California Rural Legal Assistance, Inc., Board of Directors, each to serve for two-year terms commencing November 1, 2000 and expiring October 31, 2002.

All members present and recorded on the roll-call slip voted yes on the above matter.

701 The president introduced James Pfeiffer, Executive Director, The Foundation of the State Bar, who reported to the Board concerning the work of the Foundation. Mr. Pfeiffer introduced Dr. Dorothy Tucker, President of the Foundation, who addressed the Board concerning the scholarship program of the Foundation. She also outlined the Foundation's work over the past ten years. The Annual Report of the Foundation, *Foundation Track Record Report*, was distributed to the Board.

701 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED** that the Board expresses its gratitude to the Foundation for ten years of service to the members of the bar, to the Board of Governors, and the community at large.

All members present and recorded on the roll-call slip voted yes on the above matter.

The Board recessed for lunch at 12:00 noon.

The Board reconvened at 1:00 p.m.

110 Ronald A. Albers, Chair, Board Committee on Administration and Finance addressed the Board concerning the development of 2001 General Fund Operation Budget. Mr. Albers stated that Mark Shannon, Chief Financial Officer could answer questions from Board members regarding the budget.

112 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby approves the Executive Directors Financial Limitations Policy, in the form attached to these minutes and made a part hereof, and directs the State Bar of California's Executive Director to formulate plans to implement them immediately in the day-to-day financial operations of the Bar and the development of its 2001 operating budget and future operating budgets; and it is

**FURTHER RESOLVED** that section 2.5 of the proposed policy be amended as follows: "The Executive Director shall establish an annual budget within the



limitation that expenditure shall not exceed revenue and available sources of funds and present this budget and its rationale to the Board of Governors.”

All members present and recorded on the roll-call slip voted yes on the above matter.

113 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby amends the Fiscal Review Policy to read:

~~“The Board Committee on Administration and Finance, with assistance from t~~  
**The Executive Director shall be expected to report on the financial implications of policy topics being presented to and discussed by the Board of Governors at its meetings.**

All members present and recorded on the roll-call slip voted yes on the above matter.

115 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby sets the annual membership fees as listed below:

<b>Member Category</b>	<b>General Fund</b>	<b>Building Fund</b>	<b>Client Security Fund</b>	<b>Total</b>
Active	\$295	\$10	\$40	\$345
Inactive	\$40	\$10	-0-	\$50

and it is

**FURTHER RESOLVED** that the Board sets the penalties for delinquent fees in a two-tier penalty system whereby 10 percent of a member’s unpaid balance be assessed as of March 15, 2001 and 25 percent of a member’s unpaid balance be assessed as of May 15, 2001.

All members present and recorded on the roll-call slip voted yes on the above matter.

Judy Johnson addressed the Board regarding the development of the General Fund Operating Budget with a proposed 2% (\$1.5 million) as Contingency reserve, and the development of a 5-year fiscal plan.

54-116 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Finance and Administration, that the Board hereby rescinds its policy regarding the use of State

Bar Meeting Rooms and Facilities (November 1974 Board policy, Div. 5, Ch. 7, § 2, State Bar Administrative Manual, rev. December 1997); and it is

**FURTHER RESOLVED** that the Board delegates to the Executive Director, upon consultation with General Counsel, the authority to allow use of the facilities at no cost, at actual cost or at market cost.

All members present and recorded on the roll-call slip voted yes on the above matter.

XTRA Upon motion made, second and unanimously adopted, it was

**RESOLVED** that the Board hereby directs staff to write a letter of thanks to Michael J. Morris, Herbert M. Rosenthal and T. William Melis for their efforts and their vision in purchasing the 180 Howard building.

All members present and recorded on the roll-call slip voted yes on the above matter.

114 Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Administration and Finance, that the Board hereby adopts the operating budgets for the General Fund, the Building Fund and the Client Security Fund for the year 2001, in the form attached to these minutes and made a part hereof.

All members present and recorded on the roll-call slip voted yes on the above matter.

Mr. Albers announced the appointment of James E. Herman, Chair, Scott H. McNutt, Erica R. Yew, and Nancy J. Hoffmeier Zamora, to the Board Committee on Administration and Finance's Technology Sub-Committee.

Mr. Greiner addressed the Board and outlined the legislative program.

163A Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Legislative and Court Relations, that the Board hereby finds that the proposed positions on Conference of Delegates resolutions 07-02-00, 02-04-00, 10-02-00, 10-03-00 and 10-04-00 are within the parameters established by the United States Supreme Court in *Keller v. State Bar of California*; and it is

**FURTHER RESOLVED**, that the Board of Governors takes resolutions 07-02-00, 02-04-00, 10-02-00, 10-03-00 and 10-04-00 onto the Board of Governors Legislative Program:

CATEGORY I

07-02-00 Motions: Right to Hearing and Oral Argument

Amends Code of Civil Procedure section 17 to provide that a hearing on a demurrer, motion or order to show cause includes a right to oral argument.

## CATEGORY II

- 02-04-00 Indemnity: Notice of Application for Determination of Good Faith Settlement  
Amends Code of Civil Procedure section 877.6 to shorten the time for the non-settling party to contest a good faith settlement to 20 days if notice of such settlement is personally served.
- 10-02-00 Exchanges of Expert Witness Information  
Amends Code of Civil Procedure section 2034 to increase the time to demand an exchange of expert witness information to 90 days before trial and increase the time to actually make the exchange to 70 days before trial.
- 10-03-00 Summary Judgment: Time Limitation for Motion  
Amends Code of Civil Procedure section 437c to conform with section 1005 to specify "calendar days" throughout.
- 10-04-00 Service by Mail, Overnight Delivery or Facsimile: Computation of Time Limits  
Amends Code of Civil Procedure section 1013 to specifically refer to calendar days and to provide that 10 days are added when the place of mailing is outside California.

All members present and recorded on the roll-call slip voted yes on the above matter.

163B Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon the recommendation of the Board Committee on Legislative and Court Relations, that the Board hereby approves the following for the Conference of Delegates Legislative Program subject to any existing holds:

## CATEGORY I

- 01-07-00 Inspection and Copying of Personnel Files By Employees  
Amends Labor Code section 1198.5 to permit an employee to copy certain documents contained within the employee's personnel file.
- 01-08-00 Misrepresentations to Induce Employment  
Amends Labor Code section 970 to extend liability for "recklessly false" as well as "knowingly false" representations of terms of employment which induce a prospective employee to relocate.
- 01-09-00 Misrepresentations to Induce Employment

Amends Labor Code section 971 to increase the minimum and maximum fines for misrepresentations by an employer designed to induce a prospective employee to relocate.

- 01-10-00 Misrepresentations to Induce Employment  
Amends Labor Code section 972 to grant the spouse of an employee induced to relocate by false representations of offered employment standing to sue the employer.
- 02-02-00 Doe Defendants: Amending Complaint Without Leave of Court  
Amends Code of Civil Procedure section 474 to provide that no leave of court is required to file an amendment substituting a named defendant for a fictitious defendant.
- 02-03-00 Medical Liens Reduced by Proportionate Share of Attorney's Fees and Costs  
Amends Civil Code section 3045.1 by requiring the lien holder to pay its proportionate share of attorneys' fees and costs incurred in recovering sums for the injured party.
- 03-01-00 Securities: Exemptions from Qualification  
Amends Corporations Code section 25102(o) to expand the exemption from required qualification of a securities offer or sale
- 08-01-00 Evidence: Change to Definition of Psychotherapist  
Amends Evidence Code section 1010 to extend the reasonable belief standard currently applicable only to physicians to each of the professions included in the definition of psychotherapist.

## CATEGORY II

- 01-04-00 Employment Law: Extension of Filing Deadline for Unknown Claims  
Amends Government Code section 12960 to extend the time for filing a FEHA complaint for claims not known more than 90 days before the one-year statute runs.
- 01-05-00 Employment Law: Extension of Filing Deadline for Unknown Claims  
Amends Government Code section 12960 to extend the time for filing a FEHA complaint concerning termination without actual notice while claimant is absent from the workplace.
- 01-06-00 Worker's Compensation: Change in Vocational Rehabilitation Allowance Cap  
Amends Labor Code section 139.5 to delete the current \$16,000 cap on vocational rehabilitation awards in workers' compensation cases and substitutes a tiered schedule of caps based on hourly wage rates.

- 03-03-00 Annual Minimum Tax: Merger, Dissolution or Withdrawal  
Amends Revenue and Tax Code section 23153 to expand an exemption from the minimum franchise tax to certain entities other than corporation terminating their existence or withdrawing their right to conduct business in California.
- 03-04-00 Suspended Corporations: Representation by Insurer or Counsel to Insurer  
Amends Corporations Code section 2205 to allow a corporation, suspended for failing to file annual statements with the Secretary of State, to be represented by an insurer.
- 05-07-00 Implied Consent: Admissibility of Preliminary Alcohol Screening  
Amends Vehicle Code section 23612 to require that preliminary screening tests for alcohol meet the same requirements as blood, breath and urine testing in order to be admissible evidence in a driving under the influence prosecution.
- 09-03-00 Medi-Cal Recovery: Statute of Limitations  
Adds §366.3 to the Code of Civil Procedure to establish a 1 year statute of limitations for the Director of Health Services to commence recovery of Medi-Cal payments.
- 09-04-00 Medi-Cal Recovery: Statute of Limitations  
Adds subparagraph (e) to Welfare and Institutions Code section 14009.5 to provide that any action by the Director of Health Services to recover Medi-Cal payments be commenced within one year.
- 10-11-00 Special Interrogatories: Limit of Thirty-Five  
Amends Code of Civil Procedure §2030 to limit the number of special interrogatories to 35 without seeking a court order or the agreement of opposing counsel.
- 10-12-00 Request for Admissions: Limit of Thirty-Five  
Amends Code of Civil Procedure §2033 to limit the number of request for admissions to 35 absent a court order or the agreement of opposing counsel.

All members present and recorded on the roll-call slip voted yes on the above matter.

There was general discussion concerning the requirement regarding the referral of resolution 02-09-00 re Attorney Malpractice to the Law Revision Commission.

163C Upon motion made, seconded and adopted, it was

**RESOLVED**, that the Board hereby approves for the Conference of Delegates Legislative Program with the recommendation that the Conference coordinate with the California Law Revision Commission, which is studying this issue:

CATEGORY I:

02-09-00 Attorney Malpractice: Tolling of Statute of Limitations on Appeal  
Amends Code of Civil Procedure section 340.6 to toll the limitations  
period for a legal malpractice action while the underlying judgment is  
being appealed.

All members present and recorded on the roll-call slip voted yes on the above matter with  
the exception of Patrick R. Dixon, James R. Griener, James E. Herman, Scott H. McNutt,  
Peter D. Nitschke, Karen S. Nobumoto and Robert K. Persons who voted no.

The Board discussed Conference Resolution 05-06-00 [Marijuana: Penalty for Possession]  
and determined it to be out of the State Bar's purview.

The Board went into closed session at 3:25 p.m. and those other persons present in the  
meeting except the Executive Director, Secretary, General Counsel and members of the  
Senior Executive Staff let the meeting.

The Board resumed open session at 3:36 p.m.

163D Upon motion made, seconded and adopted, it was

**RESOLVED**, upon the recommendation of the Board Committee on Legislative and  
Court Relations, that the Board hereby disapproves as inconsistent with Board  
Policy, the Legislative Program of the State Bar or Conference Purview Criteria:

CATEGORY II

05-06-00 Marijuana: Penalty for Possession  
Amends Health and Safety Code section 11357 to change the  
possession of less than an ounce of marijuana from a misdemeanor  
to an infraction.

All members present and recorded on the roll-call slip voted yes on the above matter with  
the exception of Judith M. Copeland who voted no.

163D Upon motion made, seconded and adopted, it was

**RESOLVED**, upon the recommendation of the Board Committee on Legislative and  
Court Relations, that the Board hereby disapproves as inconsistent with Board  
Policy, the Legislative Program of the State Bar or Conference Purview Criteria:

CATEGORY II:

05-01-00 Prostitution: Elimination of Mandatory Sentencing  
Amends California Penal Code section 647 to eliminate mandatory  
jail provisions for repeat convictions for prostitution.

All members present and recorded on the roll-call slip voted yes on the above matter, except Ronald E. Albers, Judith M. Copeland, Robert K. Persons, Scott Wylie and Erica R. Yew who voted no, and James E. Herman who abstained.

163E Upon motion made, seconded and unanimously adopted, it was

**RESOLVED**, upon the recommendation of the Board Committee on Legislative and Court Relations, that the Board hereby refers the following for advice to the Board Committee on Regulation and Discipline, said committee to report back to the Board at its January 26-27, 2001 meeting:

CATEGORY I

04-03-00 Attorney Discipline: Five-Year Statute of Limitations  
Adds section 6085.5 to the Business and Professions Code to specify a five-year statute of limitations to commence an action to discipline an attorney, except when the discipline is based upon a criminal conviction involving the practice of law.

All members present and recorded on the roll-call slip voted yes on the above matter.

The Board Committee Legislative and Court Relations made no recommendations to the Board on the following resolutions.

163F Upon motion made, seconded and adopted, it was

**RESOLVED** that the Board hereby takes the following action subject to any existing holds:

(1) Approve for the Conference of Delegates Legislative Program with the recommendation that the Conference confer with the Judicial Council:

CATEGORY I:

06-02-00 Custody Proceedings: Compensation of Counsel Appointed for Minors:  
Amends Family Code section 3153 to require the county to pay attorneys' fees to a counsel appointed for children in Family Law matters rather than having the parents of the children pay children's counsel directly.

06-04-00 Terminating Parental Rights: Child's Relationship with Siblings  
Amends Welfare and Institutions Code section 366.26 to add a requirement that the court consider the child's relationship to siblings or half siblings when terminating parental rights.

- (2) Approve for the Conference of Delegates Legislative Program with the recommendation that the Conference confer with the Standing Committee on Alternative Dispute Resolution:

CATEGORY II:

- 10-06-00 Arbitrators: Written Reason for Decision  
Amends Code of Civil Procedure by adding section 1283.9 which will require an arbitrator in a contractual arbitration to provide written factual or legal reasons for his award upon the request of either party at the conclusion of the hearing or within 10 days from the service of the award of the parties.
- 10-08-00 Conduct of Arbitration Hearings: Postponements  
Amends Code of Civil Procedure section 1282.2 to require arbitrators to comply with Section 9 of the Standards of Judicial Administration in determining if there is good cause to postpone a contractual arbitration hearing.

All members present and recorded on the roll-call slip voted yes on the above matter, except Ronald E. Albers, Anthony P. Capozzi, Patrick R. Dixon, James R. Greiner, James E. Herman, Scott H. McNutt and Peter D. Nitschke who voted no.

The proposed 2001 Membership Fee Statement, in a new easy-to-follow format with the accompanying brochure *What Should I Know About State Bar Membership?* was distributed to the Board.

The Board recessed at 4:50 p.m., Friday, November 3, 2000, in memory of Joseph A. Ball, former President and member of the Board of Governors, to meet again at 9:00 a.m., Saturday, November 4, 2000, in the Malcolm Lucas Board Room, Judicial Council Conference Center.

The Board of Governors of the State Bar of California reconvened in the Malcolm Lucas Board Room, Judicial Council Conference Center, 455 Golden Gate Avenue, San Francisco, California, at 9:06 a.m., Saturday, November 4, 2000, Palmer Brown Madden presiding.

The following members of the Board of Governors were present: Ronald A. Albers, Anthony P. Capozzi, Judith M. Copeland, Patrick R. Dixon, James R. Greiner, James E. Herman, Joe R. Hicks, Scott H. McNutt, Peter D. Nitschke, Karen S. Nobumoto, James D. Otto, Robert K. Persons, David L. Roth, Julie S. Sommars, Maria D. Villa, Scott Wylie, Erica R. Yew and Nancy J. Hoffmeier-Zamora.

The following members of the staff also were present: Starr Babcock, Francis Bassios, Kathleen Beitiks, Jerry Braun, Bryan Brown, Mark Shannon, Scott Drexel, Robert Hawley, Judy Johnson, Dean Kinley, Marie M. Moffat and Biljanna Sivanov.

The President outlined the agenda for this portion of the meeting.



140 David L. Roth, Chair, Board Committee on Planning, summarized the goals of the committee for the year.

The Board discussed the concept of the president-elect proposal and it was noted that it would require a statute change to implement. It was the sense of the Board that holding the election 3 to 6 months earlier would be a good way to try out the concept. The President stated that the purpose of an office of president-elect is to provide continuity and strengthen the Board, not to strengthen the Office of the President.

141 Upon motion made, seconded and adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Planning, that the Board hereby requests the Executive Director to set the 2001 - 2002 Election of President of the State Bar as close to 180 days prior to the Annual Meeting as possible, with the date for the announcement of intention to run for office set at least 30 days prior to the special meeting for the election of the President.

All members present and recorded on the roll-call slip voted yes on the above matter with the exception of Mr. Roth who voted no, and Mr. Otto who abstained from voting and requested the record so to show.

A motion was made and seconded to reconsider the previous motion to set a special meeting in March for the election of President, and instead to set the election for Saturday, June 8, 2000, but failed to be adopted.

142 Upon recommendation of the Board Committee on Planning, the Board deferred further discussion of the issue of a President-Elect system until the January 26 - 27, 2001, Board Meeting.

144 Upon discussion of the location of future Board meetings, the Board requested that Larry Doyle investigate the feasibility of a Legislative Day as part of a Board Meeting in either Sacramento or Los Angeles.

143 Upon motion made, seconded and adopted, it was

**RESOLVED**, upon recommendation of the Board Committee on Planning, that the Board hereby increases the number of members to five to the three Board committees that can bind the State Bar, Administration and Finance, Legislative and Court Relations, and Legal; the number of Board members assigned to Member Relations and Communications, Planning, Regulation and Discipline, shall remain at three members.

All members present and recorded on the roll-call slip voted yes on the above matter, except the following members who voted no: James R. Greiner, Scott H. McNutt, Robert K. Persons, David L. Roth and Erica R. Yew.

143 A motion was made and seconded to increase all Board Committees to five, but failed to be adopted.

Voting yes: Anthony P. Capozzi, Judith M. Copeland, James E. Herman, Karen S. Nobumoto, James D. Otto and Nancy J. Hoffmeier Zamora

Voting no: Ronald E. Albers, Patrick R. Dixon, James R. Greiner, Scott H. McNutt, Peter D. Nitschke, Robert K. Persons, David L. Roth, Julie S. Sommars, Erica R. Yew

- 300 Ms. Nobumoto, Chair, Board Task Force on Appointments addressed the Board concerning the goals of the task force.

She reported that a recruitment questionnaire would soon be mailed to all committees requesting information regarding their 2001 appointment vacancies and outreach needs. When the committees return the questionnaires, the information will be compiled into a recruitment binder which will be distributed to each task force member and each member of the Board. The recruitment binder will include the schedule for review of the 2001 appointments, the description of the committee, as published in the appointment application, the expected number of vacancies for 2001, the number of committee meetings, the committee's specific recruitment needs for the upcoming annual appointments such as ideal qualifications of candidates, time commitment, under-represented diversity areas and any special criteria for appointment.

- 130 Ms. Zamora, member, Board Committee on Member Relations and Communications, addressed the Board concerning the goals of the committee, and reported that Mr. Madden had authorized the current liaison to Sections and to the Conference of Delegates to function as a committee.

- 150 Ms. Nobumoto, Chair, Board Legal Committee, addressed the Board concerning the goals of the committee.

- 120 Mr. Otto, Chair, Board Committee on Regulation and Discipline, addressed the Board concerning the goals of the committee.

The Board recessed at 4:05 p.m., Saturday, November 4, 2000, to meet again at the call of the President or if no such meeting is called at 9:30 a.m., Friday, January 26, 2001, in the Board Room of the State Bar Offices, 1149 South Hill Street, Los Angeles.

MINUTES November 3 - 4, 2000  
ATTACHMENTS

54-131	Access and Fairness Committees . . . . .	-4-
54-133	Bylaws for the Council of State Bar Sections . . . . .	-6-
Nov 121	Business and Professions Code, sections 6060(e), 6060.3, 6062 an . . . . .	-5-
Nov 54-126	Rules of Procedure of the State Bar, rule 108, 201, stnd . . . . .	-4-
Nov112	Executive Directors Financial Limitations Policy . . . . .	-9-
Nov114	2001General Fund, the Building Fund and the Client Security Fund . . . . .	-10-
Nov54-124	Rule XVII . . . . .	-3-
Nov54-125	rule 205 [Duration and Termination of Actual Suspension in Defau . . . . .	-3-
Nov54-151	Board Legal Committee Charter . . . . .	-5-